IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 82 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ABHESIGH BECHRUBHA

Versus

STATE OF GUJARAT

Appearance:

MS KD PARMAR for Petitioner

MR SAMIR DAVE Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 10/04/2001

ORAL JUDGEMENT

#. The petitioner is praying for direction for jail transfer of his from Rajkot District Prison to Bhavnagar District Prison.

#. Reply to the special criminal application has been

filed by respondent, copy of which has been received by learned counsel for the petitioner on 22nd February, 2001. Rejoinder to the reply has not been filed and as a result of which, the factual averments made therein stand uncontroverted.

#. The learned counsel for the petitioner made grievance that the application of the petitioner for his jail transfer submitted to the I.G.Prisons on 25.2.2000 was rejected but a copy of the rejection order was not given to the petitioner.

#. This grievance made is correct as it is not controverted by respondent. The petitioner is a convict prisoner and if he applies for some relief, whether that relief is granted to him in accordance with law or not is a different matter, but whatever order passed on that application has to be communicated to him. This approach of the Inspector General of Prisons, though rejecting the application of the petitioner may be correct, but not to communicate the same to the petitioner is difficult to appreciate. It is expected of I.G., Prisons that in future, there will not be recurrence of such situation and complaint before the court.

#. The petitioner was convicted and sentenced to suffer rigorous imprisonment for life by learned Addl. Sessions Judge, Bhavnagar for offence under section 302 of Indian Penal Code. This judgment has been delivered on 5.12.92. After his conviction, he was transferred from Bhavnagar Jail to Ahmedabad Central Jail, Sabarmati, Ahmedabad as a convict prisoner. In pursuance of the Government Resolution of September, 1967, the petitioner was transferred from Ahmedabad Central Jail, Sabarmati, Ahmedabad, to Rajkot Jail on 15th September, 2000. The learned counsel for the petitioner submitted that the petitioner, in his application submitted on 23rd or 25th October, 2000, requested for his transfer to Bhavnagar on the ground as mentioned in paragraph-3 of the petition which reads as under:

> 3. The petitioner further respectfully says and submits that he is convicted and sentenced for life by learned Addl. Sessions Judge, Bhavnagar, for the offence punishable under Section 302 of IPC on 5.12.92. Since then, he is in Rajkot District jail. The petitioner further submits that his family is residing at Bhavnagar. The petitioner further submits that in his family, there are widow mother and Bhabhi, and younger brother. His father died before long.

> And at present there is no responsible person in his family, who can look after his family and meet him in jail at Rajkot, because his younger brother is not mentally well.

I do not find any merits in this application of the petitioner. It is nothing but only a concocted and manufactured ground which is clearly borne out from the uncontroverted fact that in the application aforesaid, the petitioner prayed for his transfer either to Bhavnagar Jail or Ahmedabad Central Jail from Rajkot. If this ground would have been genuine and real ground, the petitioner would not have made the prayer in the alternate for his transfer to Ahmedabad. From this application, it is clear that he does not want to live at Rajkot but he is happy at Ahmedabad if he is continued. So this is nothing but only a pretext which has been made before this court. Otherwise, if we go by the substance, these difficulties, as projected by the petitioner in para-3 of the special criminal application are not genuine. It is a clear case where the petitioner has made an attempt to abuse the process of this court. However, as he is a convict prisoner, I do not consider it to be appropriate to pass any order for imposing costs upon him.

#. In the result, this special criminal application fails and the same is dismissed. Rule discharged. Interim relief, if any, earlier granted stands vacated. No order as to costs.

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(sunil)